

**ATTACHMENT 1-B: TMDL-Related Proposed Text****Revised Text for Section II-F-8 (see pg. 21)**

*[replace entire existing paragraph with the following...]*

8. The purpose of the MSAR TMDL is to assure that REC1 beneficial uses are protected. To that end, the Regional Board adopted wasteload allocations for fecal coliform and *E. coli* in the following impaired waterbodies: Santa Ana River (Reach 3), Chino Creek (Reaches 1 and 2), Prado Park Lake, Mill Creek (Prado Area), and Cucamonga Creek (Reach 1). Because the initial compliance date specified in the TMDL is not until 2015, and because the Regional Board is in the process of reviewing and revising the water quality objectives for pathogen indicator bacteria, the permit does not contain numeric effluent limits for fecal coliform or *E. coli*. Rather, the MS4 dischargers are required to develop and implement BMPs designed to reduce bacterial pollution to the maximum extent practicable and to evaluate the effectiveness of those efforts. The Regional Board reserves the right to reopen the permit to add numeric effluent limits if the iterative BMP approach proves inadequate to assure attainment of water quality standards.

**Revised Text for Section II-F-14-d (see pg. 23)**

*[replace entire existing paragraph with the following...]*

- d. The numeric targets apply to all hydrological conditions. The TMDL specifies that these targets be achieved no later than 2015 for dry hydrological conditions and no later than 2020 for all other hydrological conditions. The Regional Board will judge BMP effectiveness primarily on the basis of how well the MS4's adaptive management program does at meeting these targets for the controllable sources within their jurisdiction. The Regional Board reserves the right to reopen the permit to add numeric effluent limits if the iterative BMP approach proves inadequate to assure attainment of water quality standards.

**Revised Text for Section II-F-14-e** (see pg. 23)

*[replace entire existing paragraph with the following...]*

- e. This Order requires the County, SBCFCD and the City of Big Bear Lake (the MS4 Permittees) to develop and implement BMPs designed to meet the urban wasteload allocation and to demonstrate effectiveness of the BMPs. Where long-term effectiveness assessments indicate WLAs are not being achieved, MS4 Permittees must develop and implement additional BMPs or demonstrate that no additional practicable BMPs are available.

**Proposed Revised Text for Section II-L-3** (see pg. 30)

*[replace entire existing paragraph with the following...]*

- 3. This Order includes permit conditions necessary to implement the TMDLs already approved by the Regional Board as required by federal regulations at 40 CFR 122.44(d)(vii)(B). This Order requires Permittees to achieve the wasteload allocation for urban runoff/stormwater through an iterative process of implementing BMPs to the maximum extent practicable (MEP). Failure to submit a BMP implementation plan to the Regional Board or failure to implement the approved plan in a timely manner will be deemed to violate the conditions of this Order. The federal Clean Water Act requires the Permittees to have appropriate controls to reduce the discharge of pollutants to the MEP, including management practices, control techniques and systems, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants (33 USC 1342(p)(3)(B)). MEP is a dynamic performance standard and it evolves as the knowledge of urban runoff control measures increases. Permittees are required to monitor and report effectiveness of their BMPs with respect to pollutant reduction goal(s) as one measure of progress toward reducing pollutant loads from urban sources in accordance with the compliance schedules specified in the TMDL implementation plans. If on-going monitoring indicates that implemented BMPs are insufficient to assure compliance with the relevant water quality standard(s), then the Permittees are required to develop and implement additional and/or more effective BMPs for the controllable bacteria sources within their jurisdiction to the MEP. In addition, the Permittees are required to submit a revised BMP implementation plan documenting the completion schedule for any additional and/or more effective BMPs and must execute the plan upon approval by the Regional Board. Taken together, these permit conditions are consistent with the facts and assumptions specified in the TMDLs, including the TMDL Implementation Plans, and are expected to achieve compliance with the related wasteload allocations.

**Proposed Revised Text for Section II-L-4 (see pg. 30)**

*[replace entire existing paragraph with the following...]*

4. Since some of the compliance dates for the TMDLs are outside this permit term, this Order does not impose the wasteload allocations for bacteria or nutrients as numeric effluent limits. However, the Regional Board reserves the right to reopen the permit and add such limitations if MS4 dischargers fail to implement the BMPs approved by the Board or the iterative BMP process proves inadequate to achieve the urban wasteload allocation. Numeric effluent limits are included for de-minimus types of discharges from Permittee-owned or permittee-operated facilities and activities and for total dissolved solids and total inorganic nitrogen for dry weather discharges.

**Proposed Revised Text for Section V-D-1 (see pg. 44)**

*[replace entire existing section with the following...]*

1. Middle Santa River (MSAR) Watershed Bacteria Indicator TMDL
  - a. In order to protect REC1 beneficial uses and comply with the MSAR Watershed Bacterial Indicator TMDL, the MS4 Permittees in or discharging to the impaired waterbodies named in the TMDL shall develop and implement BMPs designed to reduce pathogen indicator bacteria contamination from controllable sources to the maximum extent practicable.
  - b. The MS4 Permittees must prepare and submit a TMDL Implementation Plan to the Regional Board for review and must execute the plan upon approval by the Board. The TMDL Implementation Plan must include:
    - i. An Urban Source Evaluation Plan that describes the methods and approach the MS4 Permittees intend to use to identify and prioritize the most significant sources of bacterial contamination to the impaired waterbodies named in the TMDL.
    - ii. An Urban Source Reduction Plan that describes the BMPs the MS4 Permittees intend to implement to reduce the controllable sources of bacterial contamination within their jurisdiction to the maximum extent practicable. The Urban Source Reduction Plan must provide a detailed technical justification to support the MS4's belief that the selected BMPs will be adequately effective to achieve the TMDL targets.

- iii. A Water Quality Assessment Plan that describes the methods and procedures the MS4 Permittees intend to use to evaluate the effectiveness of their program at reducing controllable sources of bacterial pollution within their jurisdiction to the maximum extent practicable. All results from the long-term water quality monitoring effort must be reported annually to the Regional Board's Executive Officer.
- c. If results from the long-term water quality monitoring program indicate that water quality objectives are not being achieved despite the implementation of BMPs in accordance with the Urban Source Reduction Plan, then MS4 Permittees must revise the plan to include more effective BMPs or show that the residual bacterial loads are uncontrollable or originate outside the jurisdiction of the MS4s, or demonstrate that no additional practicable BMPs are available. As before, the revised Plan must be submitted to the Regional Board for review and implemented upon approval by the Board.
- d. Failure to submit or implement the required Plans on time is inconsistent with the MS4's obligation to reduce controllable sources of pollution within their jurisdiction to the maximum extent practicable and shall be deemed a violation of this Order.
- e. The Regional Board reserves the right to reopen the permit to add numeric effluent limits if the iterative BMP approach proves inadequate to meet the urban wasteload allocation for pathogen indicator bacteria.

**Proposed Revised Text for Section V-D-2-a & b (see pg. 46)**

*[replace entire existing section with the following...]*

- 2. Big Bear Lake Nutrient TMDL for Dry Hydrological Conditions
  - a. The City of Big Bear Lake, the County of San Bernardino and San Bernardino County Flood Control District shall develop and implement BMPs designed to reduce phosphorus loads to the maximum extent practicable during dry hydrological conditions (as defined by the Big Bear Lake Nutrient TMDL).
  - b. The Wasteload Allocation for Total Phosphorus from Urban Sources is 475 lbs/yr during dry hydrological conditions and must be met no later than December 31, 2015.

- c. Previous water quality monitoring and modeling indicates that the MS4 Permittees are already meeting the Urban Wasteload Allocation for Total Phosphorus. Therefore, no further nutrient reduction are required from external urban sources and this Order does not impose numeric effluent limitations for phosphorus.
- d. The MS4 Permittees are required to develop and implement a Water Quality Monitoring Plan for the Big Bear Lake watershed to demonstrate on-going compliance with the relevant urban wasteload allocation for phosphorus.
- e. The MS4 Permittees are also required to develop and implement mitigation measures, during dry hydrological conditions, designed to reduce nutrient loads from in-lake sediments where such loads originated from controllable urban sources. The MS4 permittees must prepare and submit a Lake Management Plan describing the intended mitigation measures, the scientific basis demonstrating the effectiveness of the mitigation measures, and the proposed implementation schedule. The mitigation measures must be implemented upon approval of the Lake Management Plan by the Regional Board.
- f. If results from the in-lake water quality monitoring program indicate that water quality objectives are not being achieved despite implementation of approved mitigation measures, then the MS4 Permittees must revise the Lake Management Plan to include additional mitigation measures or demonstrate that no additional practicable control strategies are available. As before, the revised Plan must be submitted to the Regional Board for review and implemented upon approval by the Board.
- g. Failure to submit or implement the required Plans on time is inconsistent with the MS4's obligation to reduce controllable sources of phosphorus within their jurisdiction to the maximum extent practicable and shall be deemed a violation of this Order.
- h. The Regional Board reserves the right to reopen the permit to add numeric effluent limits if the iterative BMP approach proves inadequate to meet the urban wasteload allocation for phosphorus during dry hydrologic conditions.

**Proposed Revised Text for Section V-D-4 (see pg. 50)**

**4. Big Bear Lake Mercury TMDL**

Pending adoption of a Mercury TMDL, the City of Big Bear Lake shall participate in the development and implementation of monitoring programs and erosion control measures, including any BMPs that the City is currently implementing or proposing to implement. The City shall classify as high priority sites all construction sites that are adjacent to (within 200 feet) or discharging directly to Big Bear Lake. The same classification should apply to construction sites that are tributary to tributary surface waterbodies listed for sediments or turbidity. These high priority sites shall specify low impact development techniques, source control, site design, pollution prevention and structural treatment control BMPs to control sediment discharges to the Lake and its tributaries.

The MS4 Permittees believe the recommended approach, which acknowledges the need to meet the urban wasteload allocations without imposing those allocations directly as numeric effluent limits is consistent with EPA guidance and previous State Board decisions (see, for example, Water Quality Orders No. 99-05, 2001-15 & 2009-0008). It is also consistent with the recommendations made by the State Board's Blue Ribbon Panel on the Feasibility of Numeric Effluent Limits in Storm Water Permits (2006) and with Michael Adackapara's written comments to the State Board regarding the Panel's Final Report (9/1/2006; copy attached).

The MS4's purpose in revising the text of the proposed Order is not to escape responsibility or accountability but, rather, to avoid inadvertently triggering federal anti-backsliding regulations that will interfere with the Regional Board's on-going efforts to update water quality standards for nutrients and bacteria. The language proposed by the MS4's preserves the Regional Board's right to impose numeric effluent limits at some late date if circumstances make such action necessary to protect beneficial uses. However, given the fact that the deadline to comply with the adopted wasteload allocations outside the proposed permit term, there is no essential regulatory purpose served by imposing the WLAs as numeric effluent limits at this early date.